

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

MI JOO TOUR & TRAVEL, LTD.

USDOT 1608797

and

EDWARD KANG, Individually

)
) Order No.: WA-2013-5000-IMH
)
)
)
) Service
) Date: _____
)
) Time: _____
)

IMMINENT HAZARD
OPERATIONS OUT-OF-SERVICE ORDER

This is an Imminent Hazard Operations Out-of-Service Order ("ORDER") issued by the Secretary of Transportation (the "Secretary") pursuant to 49 U.S.C. § 521(b)(5)(A), 49 U.S.C. § 13905(f), and 49 C.F.R. § 386.72(b)(1), and pursuant to a delegation of authority to the Regional Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration (FMCSA), United States Department of Transportation (USDOT), Lakewood, Colorado. This ORDER applies to MI JOO TOUR & TRAVEL, LTD., USDOT number 1608797, and EDWARD KANG, an individual (referred to collectively herein as "you", "your," and/or "MI JOO TOUR & TRAVEL"). EDWARD KANG is the President of MI JOO TOUR & TRAVEL. EDWARD KANG is responsible for daily operations of the carrier and has knowledge of safety violations discovered in the past.

The Secretary and the FMCSA find your operations and the continued operations of your commercial motor vehicles in the United States constitute an **imminent hazard**. This finding means that based upon your present state of unacceptable safety compliance, your operation of

any commercial motor vehicles, poses an **imminent hazard** to public safety.

EFFECTIVE IMMEDIATELY, YOU MUST CEASE ALL COMMERCIAL MOTOR VEHICLE OPERATIONS IN THE UNITED STATES, INCLUDING ALL INTERSTATE OR INTRASTATE TRANSPORTATION OF PASSENGERS BY DRIVERS FROM ALL DISPATCHING LOCATIONS OR TERMINALS.

Commercial motor vehicles and their drivers now in interstate or intrastate commerce may proceed to their next immediate destination, which is defined as the next scheduled stop for vehicles already in motion where the passengers can be safely accommodated. (See 49 C.F.R. § 386.72(b)(4) and (5)).

NO ADDITIONAL PASSENGERS MAY BE LOADED OR TRANSPORTED, NOR MAY ANY COMMERCIAL MOTOR VEHICLES BE OPERATED IN INTERSTATE OR INTRASTATE COMMERCE WHILE THIS ORDER IS IN EFFECT. A COMMERCIAL MOTOR VEHICLE MAY BE MOVED TO A LOCATION TO BE REPAIRED ONLY UPON WRITTEN APPROVAL FROM THE REGIONAL FIELD ADMINISTRATOR, FMCSA WESTERN SERVICE CENTER.

I. JURISDICTION

MI JOO TOUR & TRAVEL is a motor carrier engaged in interstate commerce in the United States and is therefore subject to the Federal Motor Carrier Safety Regulations ("FMCSRs"), 49 C.F.R. Parts 350-399, as well as the Orders of the USDOT and FMCSA. (See 49 U.S.C. §§ 506, 507, 13501, 31133 and 31136.)

MI JOO TOUR & TRAVEL is required to comply, and to ensure its drivers comply, with the FMCSRs. 49 C.F.R. § 390.11. **THE PROHIBITIONS ON OPERATION IN THIS ORDER APPLY TO MI JOO TOUR & TRAVEL, AS WELL AS ANY AND ALL OF ITS**

OFFICERS, DIRECTORS, MANAGERS, SUCCESSORS, ASSIGNS AND CLOSELY AFFILIATED COMPANIES. EXCEPT AS PROVIDED BELOW, MI JOO TOUR & TRAVEL MAY NOT USE VAN SERVICES, SHUTTLES, MINIBUSES, MOTOR COACHES OR OTHER COMMERCIAL MOTOR VEHICLES TO SUPPLEMENT ANY CONTINUED OPERATIONS.

II. BASIS FOR ORDER

The basis for determining that MI JOO TOUR & TRAVEL's motor carrier operations pose an imminent hazard to the public is that MI JOO TOUR & TRAVEL wholly fails to take basic measures to ensure that its drivers are properly rested for safe vehicle operations. MI JOO TOUR & TRAVEL fails to monitor and ensure that its drivers comply with drivers' hours of service requirements, drivers' records of duty status (RODS) requirements, and recordkeeping retention requirements, thereby posing a continuing imminent hazard. MI JOO TOUR & TRAVEL does not have safety management practices for monitoring and controlling driver compliance with hours of service requirements and verifying the accuracy of drivers' RODS and driver dispatching procedures to ensure commercial movement on the roadways is lawfully made, as required under Federal regulations. Further, on or about December 29, 2012, MI JOO TOUR & TRAVEL allowed its driver, Haeng Kyu Hwang, to drive far in excess of the maximum hours of service (70 hours) contained in 49 C.F.R. § 395.5(b)(2). On December 30, 2012, driver Hwang was at 92 hours when he was involved in a crash resulting in 9 passenger fatalities, and 39 passenger injuries.

Individually and cumulatively, these violations and conditions of operation substantially increase the likelihood of serious injury or death to MI JOO TOUR & TRAVEL drivers, passengers and the motoring public.

III. BACKGROUND

On December 30, 2012, MI JOO TOUR & TRAVEL was operating two buses on a tour of the Western United States, nearing completion of the final leg. At approximately 10:11 a.m. (Pacific Time) a 57-passenger motorcoach operated by MI JOO TOUR & TRAVEL crashed on I-84 near Pendleton, Oregon, resulting in 9 passenger deaths and 39 passenger injuries. As noted above, significant non-compliance with the driver hours-of-service requirements has been discovered by these two drivers and lack of safety oversight of driver hours-of-service by carrier management has also been discovered. In addition, MI JOO TOUR & TRAVEL had been subject to at least two compliance reviews prior to the crash. During both prior compliance reviews, multiple safety violations were discovered and civil penalties were assessed against MI JOO TOUR & TRAVEL for documented violations. You were advised of the need to comply with all FMCSRs at that time. Following the crash, on January 2, 2013, FMCSA began an unannounced compliance review and investigation on MI JOO TOUR & TRAVEL. To date, the ongoing compliance review and investigation has discovered a deterioration in your safety management controls and widespread safety violations that demonstrate a continuing and flagrant general disregard for compliance with the FMCSRs, particularly with hours of service regulations, and a management philosophy indifferent to motor carrier safety. Evidence obtained during the compliance review and investigation indicates the following systemic safety failures by MI JOO TOUR & TRAVEL: continued noncompliance with drug and alcohol testing requirements, including no post accident drug or alcohol test on a driver involved in a fatal crash in which nine passengers were killed; failing to properly maintain driver qualification requirements; failing to operate a commercial motor vehicle in a safe manner; failing to comply with hours of service requirements; failing to

properly maintain commercial motor vehicle maintenance records; and failing to require drivers to prepare driver vehicle inspection reports. Further, evidence indicates that during the period of January 23, 2012 – March 27, 2012, when the operating authority registration of MI JOO TOURS & TRAVEL was suspended for failing to pay civil penalty relating to drug and alcohol program violations from 2011, MI JOO TOURS & TRAVEL continued to operate in the United States.

As noted, MI JOO TOUR & TRAVEL does not monitor its drivers' hours of service to ensure that its drivers do not violate the hours-of-service regulations. MI JOO TOUR & TRAVEL does not require its drivers to submit records of duty status. FMCSA investigators determined a pervasive failure by MI JOO TOUR & TRAVEL to maintain driver logs and supporting documentation. MI JOO TOUR & TRAVEL's callous neglect of its responsibilities results in drivers transporting passengers at a time when they may be fatigued because of driving in excess of the maximum driving time. Such actions establish an imminently hazardous and potentially deadly situation for the driver, MI JOO TOUR & TRAVEL's passengers, and the motoring public.

IV. REMEDIAL ACTION

To eliminate this imminent hazard and before MI JOO TOUR & TRAVEL will be permitted to resume operations placed out of service by this ORDER, MI JOO TOUR & TRAVEL must take specific steps to ensure and demonstrate compliance with the FMCSRs.

YOU MUST COMPLY WITH ALL PROVISIONS OF THIS ORDER

1. MI JOO TOUR & TRAVEL must establish sufficient safety management controls to abate the hazards associated with its lack of safety management controls over its drivers' hours of service. It must ensure its drivers accurately and fully complete their daily records of duty

status and submit them to the carrier within 13 days of completion. MI JOO TOUR & TRAVEL must maintain drivers' records of duty status and all supporting documents for a minimum period of 6 months. Further, MI JOO TOUR & TRAVEL must ensure that all records of duty status are accurate by using all means available to it and by comparing each with all supporting documentation.

2. MI JOO TOUR & TRAVEL must take aggressive and progressive steps to control drivers' hours of service.

3. MI JOO TOUR & TRAVEL must ensure that all drivers are adequately trained in the requirements of the FMCSRs and that they are able to conduct motor carrier operations consistent with those regulations.

4. MI JOO TOUR & TRAVEL must implement a dispatch system that ensures that no driver will be dispatched on any trip unless the driver has the necessary available hours of service to complete the trip in accordance with 49 C.F.R. Part 395.

5. MI JOO TOUR & TRAVEL must comply with all Orders issued by FMCSA and must submit to the Regional Field Administrator a plan detailing how MI JOO TOUR & TRAVEL will (i) train all drivers used by MI JOO TOUR & TRAVEL or its successors or assigns, on compliance with the HOS regulations, (ii) monitor the compliance of all drivers used by MI JOO TOUR & TRAVEL or its successors or assigns with the HOS regulations, and (iii) ensure that all drivers used by MI JOO TOUR & TRAVEL or its successors or assigns are dispatched in such a way that scheduled routes may be completed within the maximum driving and on-duty hours, as provided in 49 C.F.R. § 395.5.

V. RESCISSION OF ORDER

Before resuming motor carrier operations MI JOO TOUR & TRAVEL must comply with the provisions of this ORDER, eliminate the problems constituting the imminent hazard that its operations and vehicles pose and adequately demonstrate to the Regional Field Administrator, Western Service Center, Federal Motor Carrier Safety Administration, United States Department of Transportation, the actions taken to eliminate the safety problems. MI JOO TOUR & TRAVEL cannot avoid this ORDER by continuing operations under the name of another person or company. Any sale, lease or other transfer of equipment and/or direct assignment of contracts or other agreements for service by MI JOO TOUR & TRAVEL requires the written approval of the Regional Field Administrator, Western Service Center. Any such action taken in anticipation of this ORDER must cease immediately. MI JOO TOUR & TRAVEL must have the ORDER rescinded by the Western Service Center Regional Field Administrator before it may continue interstate or intrastate operations.

Prior to rescission of the ORDER, MI JOO TOUR & TRAVEL will be required to:

- 1. IDENTIFY THE CAUSE OF ITS NONCOMPLIANCE;**
- 2. DEVELOP A DETAILED PLAN OF ACTION THAT ADDRESSES EACH AREA OF NON-COMPLIANCE, THE STEPS IT INTENDS TO TAKE TO OVERCOME ITS NON-COMPLIANCE AND A TIME TABLE FOR THESE STEPS (THE SAFETY MANAGEMENT PLAN);**
- 3. DEVELOP AND CERTIFY THE COMMITMENT OF MI JOO TOUR & TRAVEL TO COMPLY WITH THE FMCSRs; AND**
- 4. EXECUTE THE SAFETY MANAGEMENT PLAN AND PROVIDE CERTIFICATION BY ALL OWNERS AND COMPANY OFFICIALS.**

Any request to rescind this ORDER, and documentation demonstrating satisfaction of the Remedial Action requirements must be directed to the Regional Field Administrator, Western Service Center, with a copy to the Division Administrator, Washington Division, at the following addresses:

Mr. William R. Paden
Regional Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

Mr. Jeffrey James
Division Administrator, Washington Division
Federal Motor Carrier Safety Administration
2424 Heritage Court, SW, Suite 302
Olympia, WA 98502-6031

VI. FAILURE TO COMPLY

Failure to comply with the provisions of this ORDER may subject MI JOO TOUR & TRAVEL to an action by the United States Attorney in the United States District Court for equitable relief and punitive damages. MI JOO TOUR & TRAVEL may be assessed civil penalties of up to \$25,000 for a violation of this ORDER. (49 U.S.C. § 521(b)(2)(F) and 49 C.F.R. Part 386 App. A. § IV(g)). If violations are determined to be willful, criminal penalties may be imposed, including a fine of up to \$25,000 or imprisonment for a term not to exceed one year, or both. (49 U.S.C. § 521(b)(6)(A)).

VII. ADDITIONAL PENALTIES FOR VIOLATIONS

Any motor carrier that violates Federal requirements, including the FMCSRs, and/or permits its employee(s) to violate Federal requirements is subject to civil and/or criminal penalties. Penalties for violations of Federal statutes and regulations are separate and distinct from this ORDER. Penalties may be assessed for the violations of Federal requirements,

including the FMCSRs, previously discovered, discovered after the service of this ORDER, and/or discovered during subsequent investigations.

VIII. RIGHT TO REVIEW

You have the right to an administrative review in accordance with 5 U.S.C. § 554 pursuant to 49 C.F.R. § 386.72(b)(4). If requested, administrative review shall occur within 10 days of the issuance of this ORDER. (49 U.S.C. § 521(b)(5) and 49 C.F.R. § 386.72(b)(4)). A request for review must be addressed to the Assistant Administrator, United States Department of Transportation, Federal Motor Carrier Safety Administration, with a copy sent to the Regional Field Administrator, Western Service Center at the following addresses:

Assistant Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Regional Field Administrator, Western Service Center
Federal Motor Carrier Safety Administration
12600 W. Colfax Ave., Ste. B-300
Lakewood, CO 80215

The request must state the material facts at issue which you believe dispute or contradict the finding that MI JOO TOUR & TRAVEL's operation constitute an "imminent hazard" to the public.

A REQUEST FOR REVIEW DOES NOT IN ANY WAY DELAY YOUR DUTY TO COMPLY WITH THIS ORDER IMMEDIATELY. THIS ORDER IS INDEPENDENT AND SEPARATE FROM ALL OTHER ORDERS OR ACTIONS THAT MAY BE

**ISSUED BY FMCSA AND ANY REQUEST FOR REVIEW OF THIS ORDER WILL
APPLY TO THIS ORDER ONLY.**

Date: January 8, 2013

A handwritten signature in black ink, appearing to read "William R. Paden", written over a horizontal line.

William R. Paden, Regional Field Administrator
United States Department of Transportation
Federal Motor Carrier Safety Administration